

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 7215

BILL NUMBER: SB 380

DATE PREPARED: Feb 5, 2002

BILL AMENDED: Feb 4, 2002

SUBJECT: Venture Capital Tax Credit.

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FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State

Summary of Legislation: (Amended) The bill provides that a taxpayer that provides qualified investment capital to a qualified Indiana business is entitled to a credit against the taxpayer's state tax liability equal to 20% of the amount of the investment. It provides that the amount of credits allowed each year may not exceed \$10,000,000. It also provides that a taxpayer is not entitled to a credit for providing qualified investment capital to a qualified Indiana business after December 31, 2007.

Effective Date: July 1, 2002.

Explanation of State Expenditures: (Revised) The Department of State Revenue (DOR) would incur some administrative expenses relating to the revision of tax forms, instructions, and computer programs to incorporate this credit. Due to the annual limit on credits that may be granted, the DOR also would have to chronologically order claims for the tax credit each year and approve credits in this order. Claims for the credit could not be approved once the annual maximum is reached. Under the bill, the taxpayer would have to claim the tax credit on a state tax return or returns in a manner prescribed by the DOR. In addition, the bill would require the taxpayer to provide the DOR with proof of the qualified investment and all information that the DOR determines necessary for the calculation of the tax credit. The expenses relating to these changes and additional responsibilities presumably could be absorbed given the DOR's existing budget and resources.

The Indiana Department of Commerce (IDOC) is required to certify qualified businesses for purposes of the tax credit. A business must apply to IDOC for the certification. The IDOC must provide a copy of the certification to investors in the business for inclusion in tax filings. The bill allows the IDOC to impose an application fee of not more than \$200.

Explanation of State Revenues: (Revised) This bill establishes a Venture Capital Investment Tax Credit effective for tax years beginning January 1, 2003. The credit could not be claimed for qualified investment

made after December 31, 2007, and total tax credits claimed each year can not exceed \$10 M. As a result, the bill could potentially reduce revenue from various state taxes by up to \$10 M annually beginning in FY 2004.

Under the bill, a taxpayer (individual or entity) would be entitled to a nonrefundable tax credit equal to the lesser of (1) 20% of qualified investment capital provided to a qualified Indiana business during a calendar year or (2) \$500,000. The bill defines *qualified investment capital* as debt or equity capital provided to a qualified Indiana business. (See text below for definition of *qualified Indiana business*.) The bill limits total tax credits claimed to \$10 M per year. Annually, credits would be granted in the chronological order in which returns claiming the credit are filed until the \$10 M limit is reached. The credit could be taken against a taxpayer's Corporate Gross Income Tax, State Gross Retail and Use Tax, Adjusted Gross Income (AGI) Tax, Supplemental Corporate Net Income Tax, Bank Tax, Savings and Loan Association Tax, Financial Institutions Tax, or Insurance Premiums Tax liability. If the amount of the credit exceeds the taxpayer's liability, the excess credit could be carried forward to subsequent years. A taxpayer would not be entitled to a carryback or a refund of any unused credit. If a pass through entity does not have a tax liability, the credit could be taken by shareholders, partners, or members in proportion to their distributive income from the pass through entity.

Revenue from Individual and Corporate Income taxes, the Sales and Use Tax, the Insurance Premiums Tax, and the Financial Institutions Tax is distributed to the state General Fund. A percentage of revenue from the Corporate AGI Tax is also distributed to the Property Tax Replacement Fund. A percentage of revenue from the Sales and Use Tax is also distributed to the Public Mass Transportation Fund, the Industrial Rail Service Loan Fund, and the Commuter Rail Service Fund. Also, local units receive revenue from the Financial Institutions Tax equal to the amount of financial institutions tax revenue received in 1989 minus the amount received in the year from property taxes attributable to personal property of banks.

Qualified Indiana Business: Under the bill, the Indiana Department of Commerce (IDOC) would be required to certify qualified Indiana businesses for purposes of the tax credit. The bill provides that a qualified Indiana business is an independently owned and operated business that the IDOC determines:

- (1) Is a high growth company that is entering a new product or process area; has a substantial number of employees in jobs requiring post secondary education or in high skill occupational codes; and has a substantial number of employees earning at least 150% of Indiana per capita personal income.
- (2) Has its headquarters in Indiana.
- (3) Is primarily focused on research and development, technology transfers, or the application of new technology, or is determined by the IDOC to have significant potential to bring substantial capital to Indiana, create jobs, or diversify the business base in Indiana.
- (4) Has had average annual revenues of less than \$10 M in the two years preceding the year in which the business received the qualified investment capital from a taxpayer claiming the tax credit.
- (5) Has at least 50% of its employees residing in Indiana and at least 75% of its assets located in Indiana.
- (6) Is not engaged in a business involving real estate; real estate development; insurance; professional services provided by an accountant, a lawyer, or a physician; retail sales, except when the primary purpose of the business is the development or support of electronic commerce using the Internet; or oil and gas

exploration.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Department of State Revenue.

Local Agencies Affected:

Information Sources: